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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 160426363-7275-02]**

**RIN 0648-XG595**

**Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; Reopening of the Commercial Sector for King Mackerel in the Gulf of Mexico Western Zone**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; reopening.

**SUMMARY:** NMFS reopens the commercial sector for king mackerel in the western zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary rule. The most recent commercial landings data for king mackerel in the Gulf western zone indicate the commercial quota for the 2018-2019 fishing year has not yet been reached. Therefore, NMFS reopens the commercial sector for king mackerel in the Gulf western zone for 7 days to allow the commercial quota to be caught.

**DATES:** This temporary rule is effective at 12:01 a.m., local time, on November 12, 2018, until 12:01 a.m., local time, on November 19, 2018.

**FOR FURTHER INFORMATION CONTACT:** Lauren Waters, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail: *lauren.waters@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All of the following weights for king mackerel apply as either round or gutted weight.

The commercial quota for Gulf migratory group king mackerel (Gulf king mackerel) in the western zone is 1,116,000 lb (506,209 kg) for the current fishing year, July 1, 2018, through June 30, 2019 (50 CFR 622.384(b)(1)(i)).

The western zone of Gulf king mackerel is located in the EEZ between a line extending east from the international border

of the United States and Mexico, and 87°31.1' W. long., which is a line extending south from the state boundary of Alabama and Florida. The western zone includes the EEZ off Texas, Louisiana, Mississippi, and Alabama.

Regulations at 50 CFR 622.388(a)(1)(i) require NMFS to close the commercial sector for Gulf king mackerel in the western zone when the commercial quota is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS previously projected that the commercial quota of 1,116,000 lb (506,209 kg) for Gulf king mackerel in the western zone would be reached on October 5, 2018. Accordingly, NMFS published a temporary rule to close the western zone to commercial fishing for Gulf king mackerel effective at noon, local time, on October 5, 2018, through June 30, 2019, the end of the current fishing year (83 FR 50295, October 5, 2018). However, a recent landings update indicates that the commercial quota for king mackerel in the Gulf western zone was not reached on October 5, 2018. Approximately 8,500 lb (3,856 kg) of the commercial quota remain, and NMFS projects that this amount will be harvested in 7 days.

For the reasons stated above, and in accordance with 50 CFR 622.8(c), NMFS temporarily reopens the commercial sector for king mackerel in the Gulf western zone beginning at 12:01 a.m., local time, on November 12, 2018. The commercial sector will close 7 days later at 12:01 a.m., local time, on November 19, 2018, and remain closed until July 1, 2019, the start of the next fishing year. NMFS has determined that reopening the Gulf western zone will allow additional opportunities to harvest the commercial quota of king mackerel in that zone.

During the closure beginning at 12:01 a.m., local time, on November 19, 2018, a person on board a vessel that has been issued a valid Federal commercial or charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in the western zone under the recreational bag and possession limits specified in 50 CFR 622.382(a)(1)(ii) and (a)(2), as long as the recreational sector for Gulf king mackerel is open (50 CFR 622.384(e)(1)).

Also during the closure, king mackerel from the closed zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to king mackerel from the closed zone that were harvested,

landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(2)).

### **Classification**

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.8(c) have already been subject to notice and public comment, and all that remains is to notify the public that additional

harvest is available under the established commercial quota, and therefore, the commercial sector for king mackerel in the western zone of the Gulf EEZ will reopen.

Prior notice and an opportunity to comment is contrary to the public interest, because NMFS previously determined the commercial quota for king mackerel in the western zone of the Gulf EEZ would be reached and, therefore, closed the commercial sector for king mackerel in this zone. However, following a recent landings update the commercial quota for king mackerel in the Gulf western zone was not reached on October 5, 2018, and therefore, additional commercial quota of king mackerel in the Gulf western zone is available for harvest during the 2018-2019 fishing year. Reopening quickly is expected to help achieve optimum yield by making additional king mackerel available to consumers and resulting in revenue increases to commercial vessels.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: November 6, 2018.

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Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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